

BILL ANALYSIS

Senate Research Center

H.B. 2827
By: Place (Duncan)
Criminal Justice
4-29-97
Engrossed

DIGEST

Legislation enacted during the 74th Legislative Session amended the Code of Criminal Procedure to exempt the Texas Department of Criminal Justice (TDCJ) from the requirement that justices of the peace be notified, investigations conducted, and reports filed with the attorney general following the death of an inmate. Concern has been raised that this exemption is too broad and should apply only to deaths that are not due to natural causes or lawful execution. H.B. 2827 addresses this problem by requiring TDCJ to report inmate deaths, other than deaths attributable to natural causes or deaths due to legal execution, to the Attorney General's Office. In addition, this legislation requires TDCJ or an authorized TDCJ official to order autopsies for inmates who die of natural causes or legal execution, and defines an "inmate in the custody of TDCJ" as a convicted felon who is confined in a TDCJ secure correctional facility or who has been hospitalized while remaining in TDCJ custody.

PURPOSE

As proposed, H.B. 2827 establishes procedures applicable to an investigation involving the death of an inmate in the custody of the Texas Department of Criminal Justice (TDCJ) or imprisoned in a facility operated by or under contract with TDCJ.

RULEMAKING AUTHORITY

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Article 49.18(c), Code of Criminal Procedure, to provide that Subsection (a) does not apply to a death that occurs in a facility operated by or under contract with the Texas Department of Criminal Justice (TDCJ). Establishes that Subsection (b) does not apply to a death that occurs in a facility operated by or under contract with TDCJ if the death occurs under circumstances described by Section 501.055(b), Government Code.

SECTION 2. Amends Section 501.055, Government Code, to require a facility employee who is in charge of an inmate who dies while in TDCJ's custody to immediately notify certain persons and entities. Deletes existing text regarding an inmate who dies while confined in certain TDCJ facilities. Provides that Subsection (a) does not apply if the inmate dies of natural causes while attended by a physician or a registered nurse. Deletes existing text regarding performance of an autopsy. Requires TDCJ or an authorized TDCJ official to order an autopsy to be performed on an inmate who dies as described by Subsection (b)(1). Provides that an "inmate in custody of the department" is a convicted felon who is confined in a secure correctional facility operated by or under contract with TDCJ, or who has been admitted for treatment into a hospital while remaining in TDCJ custody.

SECTION 3. Amends Article 49.13, Code of Criminal Procedure, to provide that, notwithstanding Subsection (a), consent for a physician to conduct an autopsy is sufficient if given by TDCJ or an authorized TDCJ official in accordance with Section 501.055, Government Code.

SECTION 4. Makes application of this Act prospective.

SECTION 5. Emergency clause.
Effective date: upon passage.